

Remarks

Claims 3, 9-10, and 19 are pending. Claims 7 and 18 have been canceled. Claim 19 has been added. Support for claim 19 can be found throughout the specification, and specifically on page 6, line 5.

Applicants would like to thank Examiner Leffers for the telephonic interview of March 1, 2004.

I. Claim Rejections- 35 USC § 102

Claim 3 is rejected under 35 USC 102(b) for allegedly being anticipated by Wojda and Miller (Molecular Biology of the Cell, Nov. 1997, Vol. 8, Suppl. P86A). The Examiner states that fluorescein does constitute a “biologically active molecule,” even though the specification states that a biologically active molecule is “a molecule that, when introduced into a cell, can affect processes or reactions occurring within the cell.” (p. 4, line 20 of the specification.) The Examiner further states that it is reasonable to expect that the targeted cells did not efficiently fluoresce prior to the introduction of the fluorescein into the cells.

However, since fluorescing would not have been a process or reaction occurring within a cell, fluorescein could not have affected that process or reaction. The specification states that the biologically active molecule can *affect processes or reactions occurring within the cell*. One cannot affect a process within a cell if that process does not occur in the cell. Fluorescence would not have been a process or reaction occurring within a cell. Stated another way, fluorescein *causes* a non-naturally occurring process or reaction to occur within the cell (fluorescence), but would not have *affected* a process or reaction occurring within the cell.

Applicants would like to direct the Examiner's attention to page 5, line 17, which further defines a biologically active molecule as follows: "a biologically active molecule is one or more molecules which can, upon entering a cell, affect cellular metabolism or other cellular activities." Fluorescence is not a cellular activity or part of cellular metabolism. In fact, fluorescein does not affect processes or reactions occurring in the cell at all.

The specification gives examples of what is meant by a "biologically active molecule" on page five, lines 18-21: "Proteins, enzymes, vitamins, vaccines, transcription factors, hormones, carbohydrates, lipids, and nucleic acids (including RNA, DNA, RNA-DNA hybrids, and gene constructs) are examples of biologically active molecules." Fluorescein is clearly not a biologically active molecule as defined or exemplified by the instant specification.

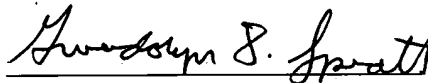
Furthermore, the paragraph below the above-referenced paragraph states that "The invention also provides a method for delivering marker-molecules into a cell..." (p. 6, lines 1-2). Here, fluorescein is defined as a marker molecule along with beta galactosidase and beta glucuronidase. It is clear that the specification has clearly defined the difference between biologically active molecules and marker molecules and given examples of each, and no overlap in the two definitions occurs. One of ordinary skill in the art would not have mistaken fluorescein as a biologically active molecule in view of the instant specification.

Pursuant to the above remarks, reconsideration and allowance of the pending application is believed to be warranted. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of the application to issue.

No additional fee is believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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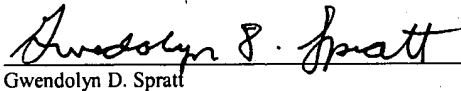
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Gwendolyn D. Spratt

5-27-07
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